

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Alvin Gamble,

Plaintiff,

vs.

Bank of America NA,

Defendant.

C/A No. 3:14-cv-02767-JFA

ORDER OF REMAND

Defendant removed this action from state court on July 9, 2014, on the basis of diversity jurisdiction, as codified at 28 U.S.C. § 1332. This court’s review of the documents filed in this case, however, shows that the \$75,000.00 amount in controversy threshold has not been met. In claiming that the amount in controversy requirement has been met, Defendant argues that “Plaintiff and his counsel through the mediator made a *verbal* settlement demand that well exceeded \$75,000” at a July 8, 2014, court-ordered mediation. ECF No. 1, p. 4 (emphasis added). Although the case was initially filed in state court on July 9, 2013—exactly one year prior to removal¹—Defendant argues that the July 8, 2014 mediation was when Defendant “first became aware that the amount in controversy in this case exceeds \$75,000, exclusive of interest and costs.” *Id.* Defendant cites to 28 U.S.C. § 1446(b)(3), which reads as follows:

Except as provided in subsection (c), if the case stated by the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

¹ “A case may not be removed under subsection (b)(3) on the basis of jurisdiction conferred by section 1332 more than 1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action.” 28 U.S.C. § 1446(c).

A verbal settlement demand, made through the mediator, is not “an amended pleading, motion, order or other *paper* from which it may first be ascertained that the case is one which is or has become removable.” 28 U.S.C. § 1446(b)(3) (emphasis added). Therefore, Defendant has not shown—by “an amended pleading, motion, order or other paper”—that this case meets the amount in controversy requirement of 28 U.S.C. § 1332.

This case is remanded to the state court whence it came for further proceedings. The Clerk of Court shall send a certified copy of this order of remand to the Clerk of the Court of Common Pleas, Richland County, Fifth Judicial Circuit of South Carolina.

IT IS SO ORDERED.

July 15, 2014
Columbia, South Carolina

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge